

**DISCHARGES TO
WATERBODIES ON THE
303(d) LIST**

**PERMIT WRITER'S MANUAL
UPDATE**

PURPOSE OF REVISION

**CURRENT MANUAL
LANGUAGE DOES NOT HAVE
ENOUGH DETAIL ON
PROCESS**

**PERMIT WRITER'S ASKING FOR
GUIDANCE IN FOLLOWING
REGULATIONS**

ASSIGNED THE TASK BY PMT

3.3.11 TMDL'S and WLA'S

The wasteload allocations (WLA's) which are used to derive effluent limits may be derived on an individual permit basis or they may be determined by a basin TMDL determination.

Federal and state regulations require permits be conditioned so as to meet the water quality standards. In the absence of a basin TMDL and WLA, the permit writer must do an individual WLA to comply with regulations.

Occasionally, the permit writer will discover that the background receiving water concentration exceeds the aquatic life or human health criteria or the waterbody will already be listed for the pollutant on the 303(d) list. In these cases the permit writer should limit the pollutant to meet the criteria for the receiving waterbody in the effluent and grant a compliance schedule in the permit, if necessary. If the permit writer discovers, during the process of writing a permit for a facility, that the waterbody is not meeting standards the Watershed Management Section should be notified. The waterbody will be listed for a TMDL.

ENVIRONMENTAL BENEFIT

**THE 1987 REVISION OF THE
CWA AND RESULTING
REGULATIONS EMPHASIZED
WATER QUALITY-BASED
PERMITTING - ALL
DISCHARGES MEET WATER
QUALITY STANDARDS**

**DISCHARGES TO
WATERBODIES ON THE
303(d) LIST**

PRINCIPLES AND PROCESS

If we have information that there is a water quality impairment at the point of discharge we can not authorize a discharge that contributes to the impairment. This is applicable even if the receiving water is not currently listed on the 303(d) list or subject to a TMDL. [40 CFR 122.44(d)(1)(i) and vii].

Listing of a waterbody on the 303(d) list does not automatically mean impairment at the point of discharge. We may use our professional judgement to assess information on impairment at the place and time of discharge.

The professional judgement on impairment of the receiving water must take into account the type of pollutant, the timing of the critical period, the basis of the criteria and the location of the listing.

We have authority to require dischargers to do receiving water studies around their point of discharge to determine assimilative capacity and the effect of the discharge. [40 CFR 122.41(h), WAC 173-220-210(1)(c)]

If we allow discharges which temporarily contribute to an impairment, the permit must contain final limits to meet the standards, a compliance schedule which includes an engineering report to meet the final limits, and interim limits to assure no increase in loading during the compliance schedule. [40 CFR 122.44(d), 40 CFR 122.47, WAC 173-201A-160(4)]

Mitigation and seasonal discharge limits are allowable tools for meeting water quality standards.

There is no regulation allowing de minimis loading to an impaired receiving water.

The timing of receiving water studies and technology studies may be different for different classes of dischargers.

We may have to allow a compliance schedule to exceed 10 years in some limited circumstances.

A determination that natural conditions in a receiving water exceed numeric criteria can only be made from: 1) data from the waterbody prior to any human disturbance in the watershed, 2) correlation of the water quality to a similar site in a physically comparable stream in an adjacent undisturbed watershed, or 3) a model of the waterbody and watershed developed as part of a TMDL. [WAC 173-201A-020].

**Mixing zones (and extended mixing zones) are not applicable when the receiving water is not meeting standards. [WAC 173-201A-100(14)]
Using a mixing zone when background exceeds the criteria would require that the discharge concentration be less than the criteria.**

The regulation at 40 CFR 122.4 (i) **Prohibitions** addresses 2 types of discharge situations. The first sentence addresses discharge situations for which no TMDL has been completed. That sentence says;

No permit may be issued:

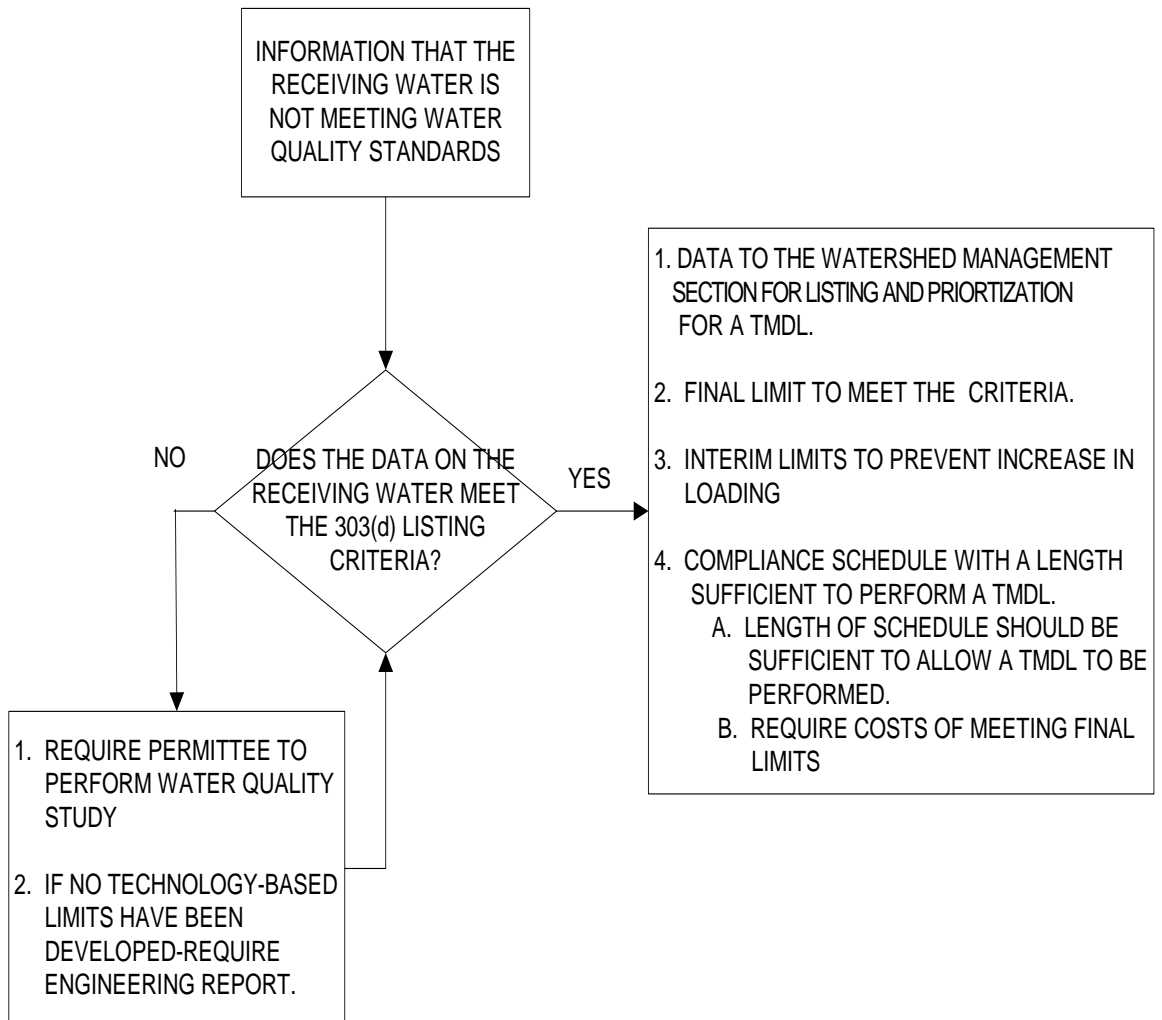
To a new source or new discharger, if the discharge from its construction or operation will cause or contribute to the violation of water quality standards.

The rest of the paragraph discusses situations in which a TMDL and WLA's have been completed.

The owner or operator of a new source or new discharger proposing to discharge into a water segment which does not meet applicable water quality standards or is not expected to meet those standards even after the application of the effluent limitations required by the sections 301(b)(1)(A) and 301(b)(1)(B) of CWA, and for which the State or interstate agency has performed a pollutants load allocation for the pollutant to be discharged, must demonstrate, before the close of the public comment period:

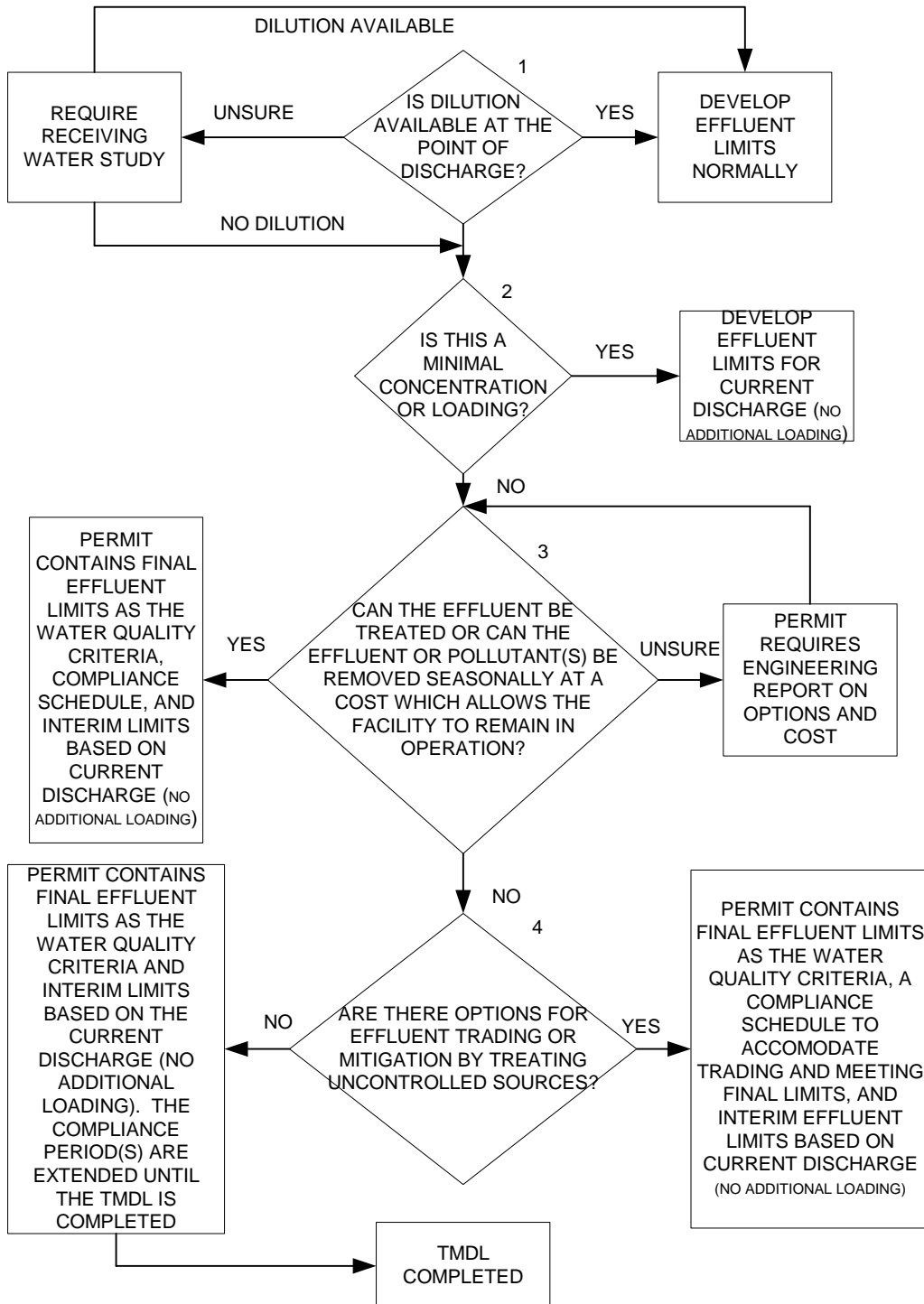
- (1) There are sufficient remaining pollutant load allocations to allow for the discharge; and**
- (2) existing dischargers are subject to compliance schedules**

NO TMDL, NO 303(d) LISTING



NO TMDL, 303(d) LISTED

Figure VI-4. Permitting discharges to a 303(d) listed water body with no TMDL. If an AKART analysis has not been completed for the pollutants at issue, decision boxes 1 and 3 are conducted concurrently.



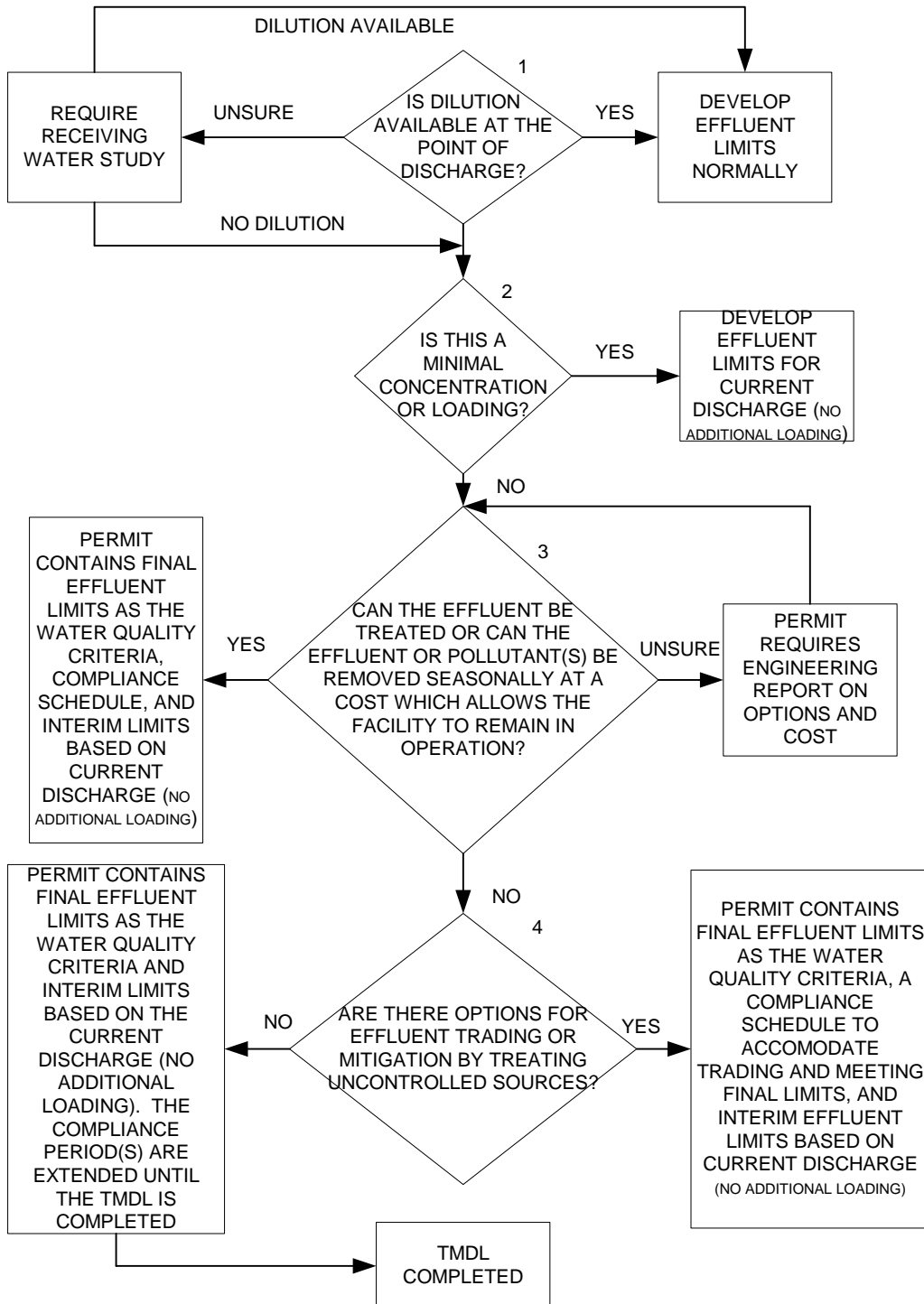
CONSIDERATIONS - DECISION BOX 1

**TYPE OF POLLUTANT -CONSERVATIVE,
NON-CONSERVATIVE, HUMAN HEALTH,
AQUATIC LIFE**

**TIME OF CRITICAL CONDITION,
DISTANCE FROM LISTING STATION**

NO TMDL, 303(d) LISTED

Figure VI-4. Permitting discharges to a 303(d) listed water body with no TMDL. If an AKART analysis has not been completed for the pollutants at issue, decision boxes 1 and 3 are conducted concurrently.



CONSIDERATIONS - DECISION BOX 2

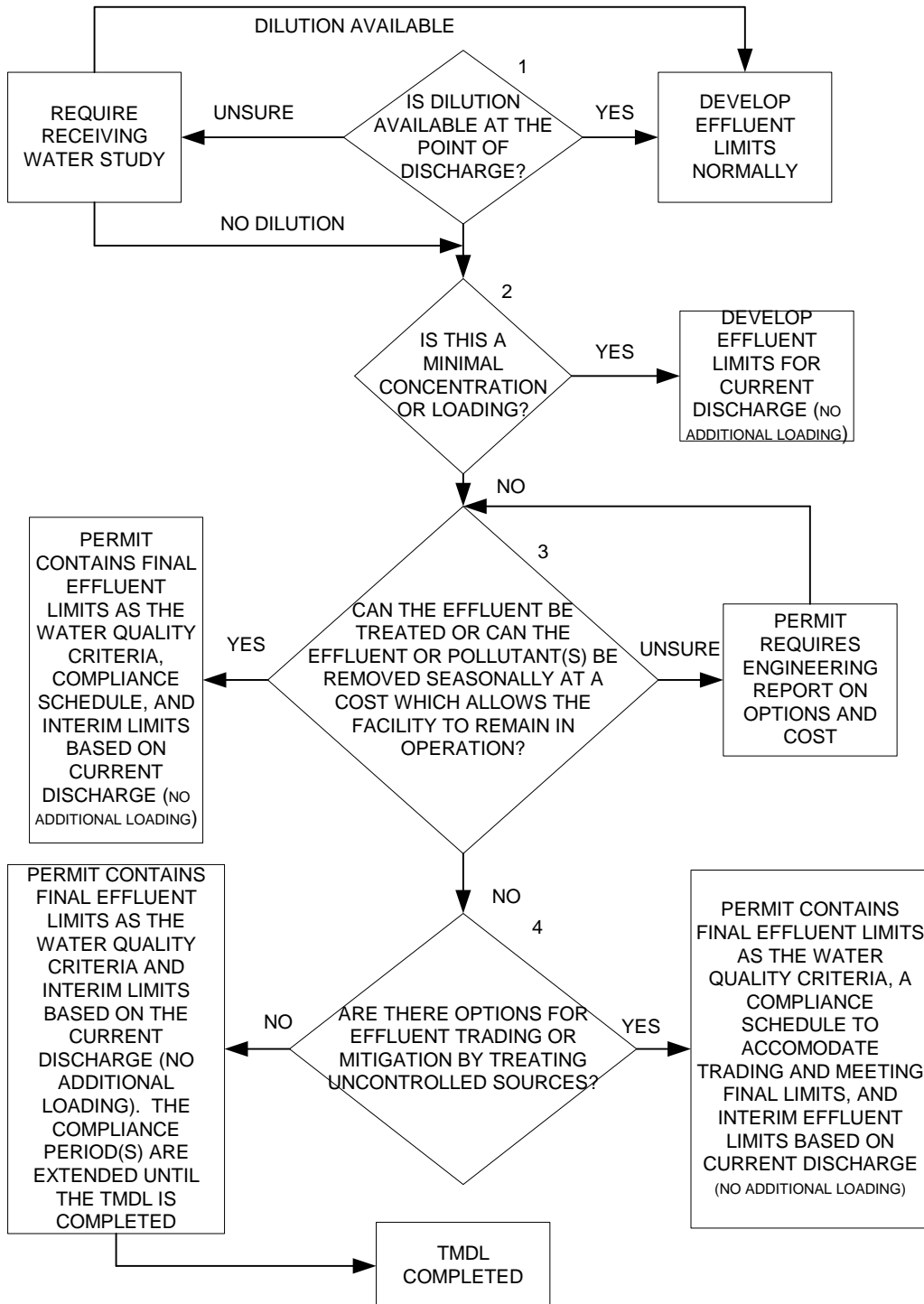
**LOADING IN RELATION TO NON-POINT
SOURCES**

**PROBABILITY OF MEETING CRITERIA AFTER
IMPLEMENTATION OF TMDL**

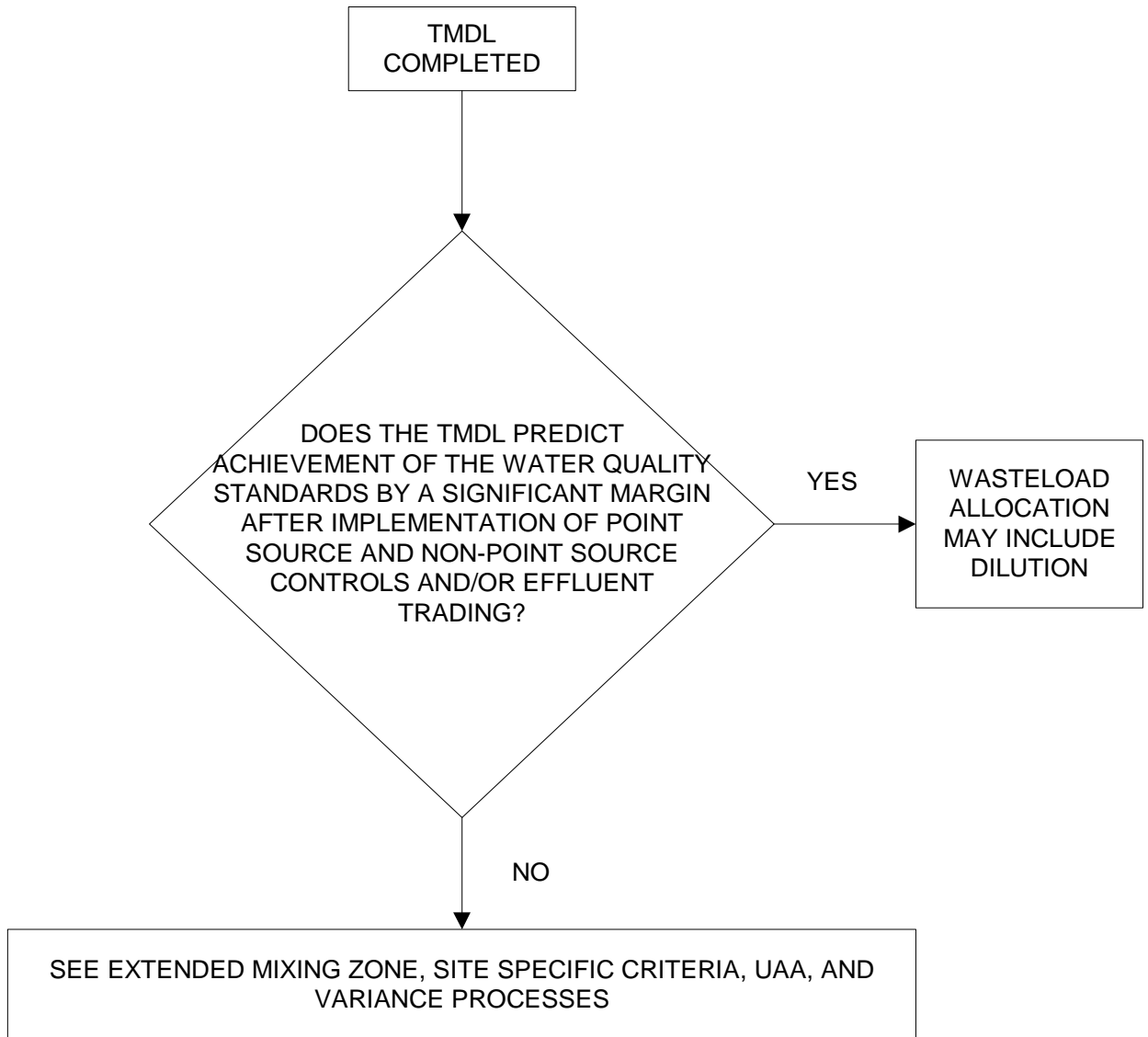
WHAT IS A SIGNIFICANT MEASUREMENT

NO TMDL, 303(d) LISTED

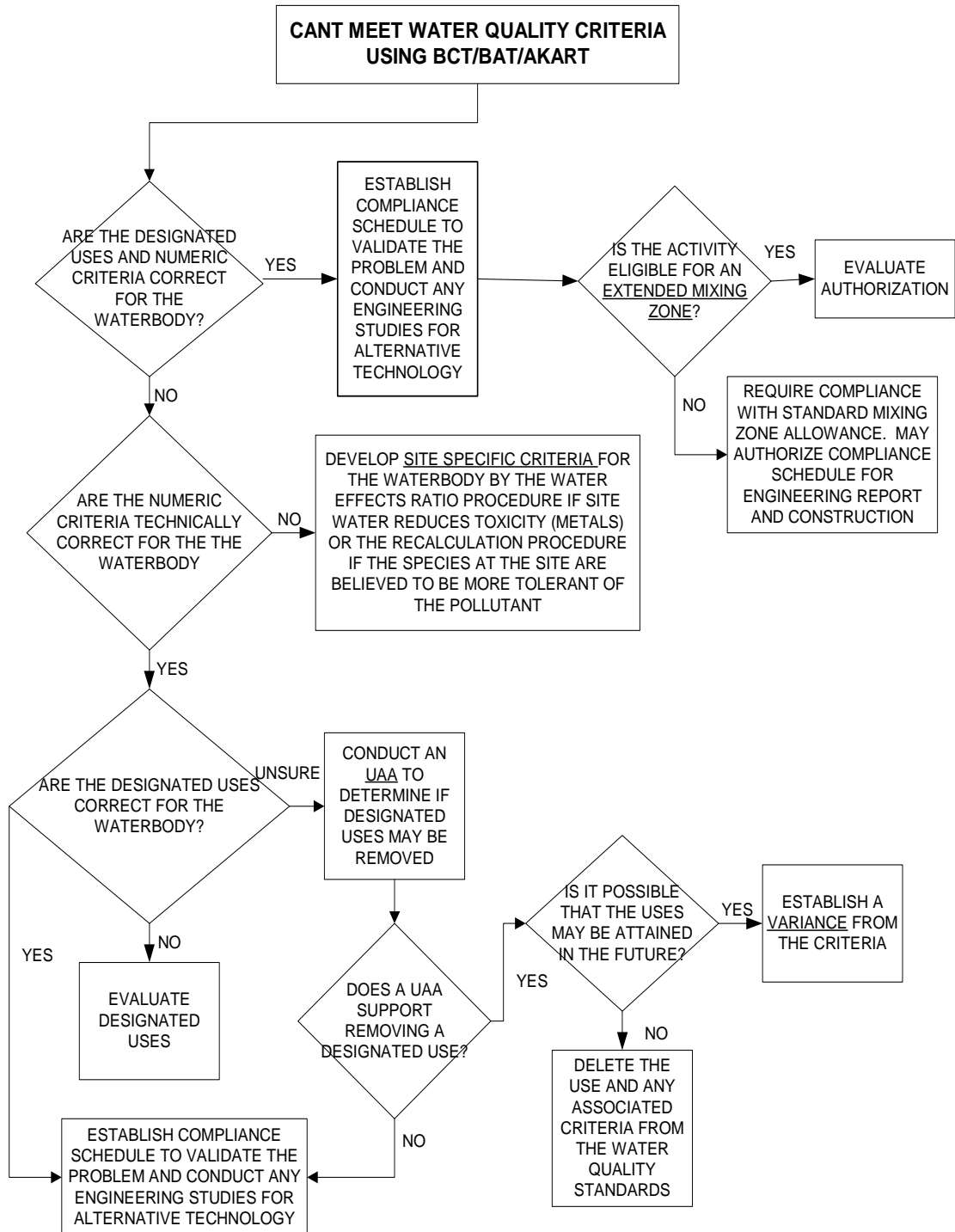
Figure VI-4. Permitting discharges to a 303(d) listed water body with no TMDL. If an AKART analysis has not been completed for the pollutants at issue, decision boxes 1 and 3 are conducted concurrently.



TMDL COMPLETED



WATER QUALITY STANDARDS TOOLS



GENERAL PERMITS

THE PERMITTEE'S DISCHARGE MUST NOT CAUSE OR CONTRIBUTE TO AN EXCURSION OF THE STATE'S WATER QUALITY STANDARDS, INCLUDING THE STATE'S NARRATIVE CRITERIA FOR WATER QUALITY [40 CFR 122.44(d)(1)(i)]. IF YOU DISCHARGE A POLLUTANT WHICH IS NAMED AS A POLLUTANT CAUSING A WATER QUALITY STANDARDS' VIOLATION AT THE LOCATION NAMED ON THE STATE'S 303(d) LIST YOU SHALL NOT DISCHARGE THAT POLLUTANT AT A CONCENTRATION ABOVE THE STATE'S WATER QUALITY STANDARD.